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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,959	03/11/2004	Petri Mussalo	3502-1054	4010

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EXAMINER

JOHNSON, JERROLD D

ART UNIT	PAPER NUMBER
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3728

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/796,959	Applicant(s) MUSSALO, PETRI	
	Examiner Jerrold Johnson	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>09 September 2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis US 115,175 in view of any one of Colechia US 3,567,015, Saltz US 3,381,811, Jaeger US 2,566,062 or Hallen US 1,827,315.

This rejection depends on the principle of inherency, in particular as it relates to the inherent capability of a device in meeting intended use limitations. The present claims 1-9 do not positively set forth precut double-loop wire units as those elements are understood in the art. Instead, the present claims are drawn to an article of manufacture in the form of a carrier plate that is capable of carrying these double-loop wire units. The carrier plate comprises three elements: a frame, several elongate storage elements and retainer elements provided with the storage elements.

Davis discloses the frame A, the storage elements each having a frame *that is inherently capable* of having a double-loop wire unit disposed thereon in the manner claimed. It is *not* the Examiner's position that one of ordinary skill in the art would in fact dispose double-loop wire units on the storage elements of Davis. There is no evidence to support such a determination.

Davis does not disclose that his storage elements include retainer elements.

Each of the references Saltz US 3,381,811 (40), Jaeger US 2,566,062 (22) or Hallen US 1,827,315 (19) disclose retainer elements in various forms that are disposed proximate the ends of storage elements. Colechia US 3,567,015 in col. 1 line 32 describes the ubiquitous use of tape in the securement of staples into a row.

Accordingly, it would have been obvious to one of ordinary skill in the art to provide the storage elements of Davis with the retainer elements as are disclosed by any one of Saltz, Jaeger or Hallen so as to minimize the possibility that the staples disposed thereon are retained securely until the user desires to remove them.

With respect to claim 3, that sets forth that the retainer element is formed of tape, clearly tape would be an art recognized equivalent to the staple shown by Jaeger as it would perform the substantially the same function in substantially the same way to produce substantially the same result. Alternatively, Colechia discloses in broad terms the use of tape as a retainer element. Accordingly, either of these references meet the claim limitations of claim 3.

The Examiner does not make the argument that the retainer elements of Hallen or Saltz be formed from tape. Both Hallen and Saltz disclose retainer elements that extend from the storage elements in a similar manner as the retainer elements 2 of the present invention. The disclosure of the present invention in page 5 line 38 sets forth that these retainer elements (the protrusions) are formed of tape. There is no teaching in the prior art of record showing a protrusion such as this formed of tape, nor any reason why one of ordinary skill in the art would form the protrusions of either Hallen or Saltz from tape. However, the retainer elements are not set forth with any structural

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specificity, so there are no claims that are indicated as being allowable with respect to this concept.

Re claim 5, the claim sets forth a size relationship between a positively set forth claim element and the double-loop wire unit for which the element is intended.

Accordingly, Davis is inherently capable of this size relationship with a double-loop wire unit.

Allowable Subject Matter

It appears that claims 1 and 8 would be allowable if the double-loop wire units are positively set forth in the claims. Alternatively, it appears that either claim would also be allowable if the retainer elements are set forth as both having the structure that is seen in Fig. 3 ("nodule-like" protrusion) as well as a recitation that it is made from tape.

The applicant is advised to contact the Examiner with respect to claim language that will be acceptable.

Finally it must be noted that there is very little art showing devices for carrying double-loop wire units. Wasgien US 5,806,676 is the only reference in class 206 (special receptacles) that shows an arrangement for this purpose.

Floyd US 3,227,270 shows what is closest to the appearance of the present invention. The storage elements 40 are too short to be inherently capable of providing the functionality of carrying a double-loop wire unit, and the reference teaches away from using a retainer element, as is evidenced by the taper of the storage elements 40.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JBJ



Mickey Yu
Supervisory Patent Examiner
Group 3700